

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT: Notification of Possible Foreign Nuclear Tests

1. This memorandum is for the information of the Director of Central Intelligence. It is a statement of the authorities on which the Joint Committee on Atomic Energy and the Senate Preparedness Investigating Subcommittee rely in requesting information on foreign nuclear tests.

2. The Atomic Energy Act of 1946, as amended, contains provisions regarding responsibilities of the Atomic Energy Commission, the Department of Defense and other departments and agencies with respect to the Joint Committee on Atomic Energy. Section 202 of the Act requires the Atomic Energy Commission to "...keep the Joint Committee fully and currently informed with respect to all of the Commission's activities." It requires the Department of Defense to "...keep the Joint Committee fully and currently informed with respect to all matters within the Department of Defense relating to the development, utilization, or application of atomic energy." This section also provides that, "Any Government agency shall furnish any information requested by the Joint Committee with respect to the activities or responsibilities of that agency in the field of atomic energy." (Emphasis added.)

3. The responsibility which the Central Intelligence Agency has under this Act is that which applies to "Any Government agency." In taking the initiative in providing the Joint Committee with information in certain fields, the Agency is acting in a spirit of cooperation and in anticipation of requests. A specific situation or request from the Joint Committee could result in a declination on the part of the Agency. Such a refusal would have to be based upon the Director's responsibility

under Section 102(d)(3) of the National Security Act of 1947 for protecting intelligence sources and methods from unauthorized disclosure. There are sound legal arguments on both sides of the issue as to which of these enactments should prevail in the given situation.

4. The Senate Preparedness Investigating Subcommittee has no specific statutory authority upon which it can base requests for information or cooperation from the Executive Branch. Its request for information regarding the four safeguards is based upon a motion from Senator Jackson during the course of General Maxwell Taylor's testimony on the treaty (Tab A) and commitments made by Executive Branch witnesses during the test ban hearings. (The thrust of the Director's testimony before this Subcommittee is contained in the General Counsel's Memorandum for the Record on the Director's appearance (Tab B) and a prepared statement containing code word material (Tab C).) More specifically, it is acting upon a two-part letter from Roswell Gilpatric, Deputy Secretary of Defense, on 23 August 1963 to the Chairman of the Senate Armed Services Committee (Tab D). This letter states that it was prepared after obtaining advice from the Joint Chiefs of Staff and after consultation with the Atomic Energy Commission, the Central Intelligence Agency and the Arms Control and Disarmament Agency.

25X1

6. In the final analysis, our handling of this situation is a matter of cooperation between the Agency and the Committee concerned taking into consideration the sensitivity of the material involved, the personalities involved and, where documentary material is concerned, the physical security facilities which will be used as a repository for that material. (It was on this basis that we have declined to give the Preparedness Subcommittee a retention copy of the National Intelligence Estimate on the Soviet atomic energy program.)

25X1 7. Taking all factors into consideration, I would agree with the recommendation by [ ] concurred in by the DD/S&T and Dr. Reichardt, of the Atomic Energy Commission, that [ ] 25X1 be authorized to advise Colonel Smith or Mr. Kendall of an alert after the JAEIC statement has been issued on a possible foreign nuclear test.

LAWRENCE R. HOUSTON  
General Counsel

Attachments:  
Tabs A - D

# MISSING PAGE

ORIGINAL DOCUMENT MISSING PAGE(S):

Tabs A thru D